

AMESBURY ZONING BOARD OF APPEALS
City Hall Auditorium, 62 Friend Street
Thursday, March 28, 2013 - 7:00 pm

Attendance: William Lavoie, Olyce Moore, Matt Sherrill, Sharon McDermot

Absent: Robert Orem, Donna Collins, Ben Osgood

Also in attendance: Denis Nadeau, Building Inspector; Susan Yeames, recording secretary.

Transcribed by Paul Bibaud.

Meeting called to order at 7:15 p.m.

MINUTES – February 28, 2013 continued to April 25.

A public hearing will be held by the Town of Amesbury Zoning Board of Appeals at the Amesbury City Hall Auditorium, 62 Friend Street, Amesbury, MA, on **Thursday, March 28, 2013, at 7:00 pm**, to consider the following:

Request for Extension Amesbury Heights 36 Haverhill Road Comprehensive Permit (Boston North Properties)

Claire Burho, representing Boston North Properties. Last month, we made a proposal for a years extension, then come back showing what efforts we've made to further the project in the meantime, and if we were going to ask for an additional extension. I discussed that with Mr.

Capolupo and he said that is more than fair.

Matt Sherrill: To recap, our agreement is that this board extends your 40B application for Amesbury Heights at 36 Haverhill Road for a one year term from April 5, 2013 to April 5, 2014. Prior to that extension expiring, you will come back to us with a plan that shows intentions to move forward. If that plan is received by this board favorably, then we'll give you another year extension.

Claire Burho: Yes, that and also that some efforts were made, even if they didn't come to fruition.

Matt Sherrill: Agreed. So, on the table is the applicant's request for one year extension to expire on 4-5-14, prior to expiration, you will return before the board to request another year extension to 2015. Vote was all in favor, so extension is granted.

Chester & Cynthia Conant are seeking a **Special Permit/Finding** under Amesbury Zoning By-laws Section IX, Paragraph B; Extension and Alteration to expand second floor living space at 485 Main Street, Amesbury in an R20 Zoning District, Precinct 1.

Scott Brown, architect for the Conants at 485 Main Street. We have a proposal to expand the second floor living space, turning it from a 1 ½ story cape to a 2 story box Colonial. That wasn't received well by three abutters, so since then, the Conants reached out to those abutters to get their issues clarified and discussed. As a result of those meetings, we went back to the drawing board and we come forward tonight with a revised proposal that keeps this project a cape. We propose to raise the existing roof down to the existing second floor deck, building a new roof with a shed dormer across the front and a full shed dormer across the back of the house. To do this, we can retain existing roof rafters. Our new proposal (red is former proposal, blue is current proposal in the plan before you) is a mere 21 inches taller than existing cape. This proposal has been submitted to the board. My clients reviewed this with the abutters and it seems to be re-

ceived favorably. So I would argue that this is a dramatic improvement to the property, and I don't see any negative impact to anyone abutting this property.

Matt Sherrill: Last time, it was a complete makeover of the house. This time, are you talking all new windows throughout the house, all new doors, what is the extent of construction beyond the dormers that we will consider.

Scott Brown: It's not a complete makeover that would be out of budget. The intention is to retain as much of existing chimney, boards, putting in a new front door, save existing double hung windows but adding two more. The first floor is being kept in tact. We'll take off the first floor up, adding a height of 21 inches total.

Leonard Johnson, abutter at 488 Main Street and owner of property at 489 Main Street: I spoke to the applicant after these new revisions were presented. My concerns have been resolved with these new revisions, so I have no objection. The letter I sent you dated 2-21-13 in regards to the first plan I give permission to strike that from the records.

Motion to close and discuss by Sharon McDermot, second by Olyce Moore.

Predates Zoning? Yes, 1961.

Non-conforming? Yes, front, left side, and area.

Detrimental? No impact with modified plans.

Create new non-conformity? No.

Stipulations? No.

Sharon McDermot motion to vote, seconded by Olyce Moore.

Bill Lavoie: Yes

Olyce Moore: Yes

Matt Sherrill: Yes

Sharon McDermot: Yes.

Application is approved.

Michael Mammola is seeking a **Special Permit/Finding** under Amesbury Zoning Bylaws Section IX, Paragraph B; Extension and Alteration and Section VI, Paragraph B to demolish existing storage shed and replace with updated structure at **22 Merrimac Street**, Amesbury in an R20 Zoning District, Precinct 1.

Applicant will put in writing that he requests an extension on this application to the meeting on April 25, 2013. There will be no further notices published about this matter at this next meeting. People with interest need to mark their calendars.

Abigail Bottome is seeking a **Special Permit/Finding** under Amesbury Zoning Bylaws Section XI.K2; In Law Apartments and Section IX.B; Extension and Alteration to construct an in-law apartment on the northerly side of the existing single family residence **5 Andrews Lane**, Amesbury in an R20 Zoning District, Precinct 1. This is considered as a finding for the addition proposed, then we'd also do it under special permit for the in-law apartment. K2.

Malcolm McKay, representing Abigail Bottome, applicant: The application did not have the mean roof height in there. Contractor says it's 30 feet, for the record. In the package is a copy of the certified plot plan, but I've also provided an enlarged copy to make it easier to envision the size of the house and addition. It's not to scale but provides dimensions. Also provided were renderings of the exterior of the whole structure, the existing structure, the existing addition and then the proposed mother-in-law apartment on the back of the building. Also included is a floor plan, parking plan and elevations. There are 2 changes regarding to the plans. Parking shows you a proposed parking space in front of the house, but there is enough existing parking space so that it can be widened to accommodate the additional car. The initial plan called for a cut out off of Andrews Lane on the front of the house that would've accommodated an additional car. We

changed that for two reasons. That spot is very near Andrews Lane, which is already narrow. Secondly, there is a stone wall there that would need removal. The other issue in regard to the interior layout, the plans called for an interior stairway going from the addition going down to the main floor of the house. The reason being that the topography of the land is such that the mother-in-law addition is going to essentially be a floor higher than the existing house. So that stairway will be gone and the entrance will be directly from the mother-in-law apartment to the second floor of the existing house. I don't have a plan with me that shows this new revision, but I will submit that to you. You didn't get the parking plan yet, either. We're looking for two things: 1. a finding allowing addition to a pre-existing non conforming structure, and 2. a special permit to construct the mother-in-law apartment. The addition will be 38 feet on its wide axis by 20 feet. 38 feet is about the same size as the house itself. Plus an eight foot wide open porch with a roof that faces out across the backyard. The parcel is about 2 acres, the rear yard is about 300 feet back. The sideline setback will remain the same but setbacks will increase, so the directional non conformities will not increase. None of the neighbors have a problem with this, I have letters to attest to that fact. There will not be any real variation to the street, since it's behind the house.

Matt Sherrill: The definition of in-law apartments call for no more than 1000 square feet or no more than 30 % of gross living area. The application states 1064 square feet, so we're over on that, but I'm hoping you'll tell us it's not over 30 % of existing gross floor area.

Malcolm McKay: No, it's not. I believe when the stairway goes away, it should put us under 1000 square feet. It appears we need to revise the plan to get it down. 38 X 20 would be 380 X 2 = 760 square feet. Then the porch is 8 X 38, putting it up to 1060. We'll only put a roof over **half** the proposed porch, the rest open as a deck. That gets us under the 1,000 square feet limit.

Moving on to the Special Permit: Plans are self explanatory: It's a single story structure, 6 feet wide by 15 for a study, a bedroom, a kitchen, bathroom and porch, occupied only by Abigail, her son Paul and his family occupying the main house. No additional meters outside the house or inside either. The common unlocked door will stay in the same place, into an existing bedroom.

Sharon McDermot motion to close and discuss. Olyce Moore seconded the motion.

Matt Sherrill: Letter from abutter, Benjamin and Linda Larabee: They wrote in support of Abigail Bottome's request for a special permit to build an in-law apartment attached to her home on 5 Andrews Lane, two houses down from our own. The proposal architecturally returns to the tradition of two or three generations sharing a home. We are in favor.

Kathryn Barclay, abutter at 6 Andrews Lane, next door to Abigail: We've seen her plans. We have no problems with her addition and support her in her efforts to change her house to fit her family's needs.

Mr. and Mrs. David Symes, abutter in complete support at 7 Andrews Lane. We reviewed the plans and find them to be a very positive addition to the neighborhood.

Mr. McCabe, abutter in complete support of Abigail Bottome's proposal.

Sharon McDermot motion to close and discuss. Olyce Moore seconded the motion.

Finding discussion for the addition: Project is a 38 X 20 addition.

Predates Zoning? Yes, 1800.

Non Conformity: Front and left side.

Detrimental? No.

Create new non-conformity? No.

Sharon McDermot motion to close and vote. Motion seconded by Bill Lavoie.

Bill Lavoie: Yes.

Olyce Moore: Yes.

Matt Sherrill: Yes.

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Sharon McDermot: Yes.

Finding is approved.

Special Permit – In-law apartment:

Currently exist in the table of uses: yes.

Is it essential or desirable to public convenience or welfare: yes.

Will it create undo traffic or impede pedestrian safety: no.

Will it overload public systems: no.

Special Conditions on Section XI.K2.

1. special permit will be issued for a period of five years and will be renewable upon request provided applicant continues to meet requirements of the special permit. The special permit will expire if conditions of approval are not maintained or the in-law apartment ceases to be occupied as provided herein.
2. Where new kitchen appliances have been added they shall be removed within 6 months of the expiration of the special permit and the building inspector shall report such removal to the ZBA.
3. There shall not be separately metered electric or water service to the in-law apartment.
4. All safety, health and building codes are to be met.
5. There should be no boarders or lodgers within either unit of the dwelling with an accessory in-law apartment.
6. There shall be parking for one additional car for the in-law apartment.
7. If the in-law apartment becomes vacant, the owner must report the vacancy to the building inspector within 60 days, and the owner will be given 6 months to remove all kitchen appliances.

Matt Sherrill: Have all special conditions been satisfied? Yes.

Will this impair the character, health or welfare of the district? No.

Will this create an excess of in-law apartments in the neighborhood? No.

Stipulations: Removal of the interior stairs and the common unlocked door will enter into the bedroom of the existing dwelling. Also, only half of the proposed porch will have a roof. The other half has to remain a deck, so that it brings the in-law apartment into conformity with zoning bylaws to keep it under 1,000 square feet.

Motion by Sharon McDermott to close and vote, seconded by Olyce Moore.

Bill Lavoie: yes.

Olyce Moore: yes.

Matt Sherrill: yes.

Sharon McDermot: yes.

Special Permit is approved.

Douglas Bechler and Christina Verrette are seeking a **Special Permit/Finding** under Amesbury Zoning Bylaws Section VI.B; Table of Dimensional and Density Regulations to construct a third floor dormer addition for master bath to the existing single family residence **5 Perkins Street**, Amesbury in an R8 Zoning District, Precinct 6.

Doug Bechler, 5 Perkins Street: Looking to put a bathroom on the third floor with a 12 foot shed dormer with three windows. Single family home. On the third floor, there is one bedroom finished and one not finished. The unfinished bedroom will capture the six feet of dead space and put the bathroom there. Three people live in the house. The first floor is unfinished. No basement. Basically, the first floor is the basement, with utilities there. ZBA has no questions.

This is to be done as a FINDING.

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Motion by Sharon McDermott to close and discuss. Motion is seconded by Olyce Moore.

Shed dormer with three windows.

Predates Zoning? Yes. 1900.

Non-conforming? Right side and front.

Detrimental? No effect.

Any new non-conforming? No.

Stipulation? No.

Sharon McDermott motion to close and vote. Motion is seconded by Olyce Moore.

On the shed dormer:

Bill Lavoie: yes.

Olyce Moore: yes. Matt Sherrill: yes.

Sharon McDermott: yes.

Finding application has been approved.

Robert Zickell is seeking a **Special Permit/Finding** under Amesbury Zoning Bylaws Section X.J; Special Permits, Section XI.K1 & XI.K2; In Law Apartments to construct an in-law apartment to be built at a single family home at **16 Old Merrill Street**, Amesbury in an R20 Zoning District, Precinct 1.

This is a modular home, so the plan will not vary from the plan you see before you.

Bernard Christopher, owner of Great Woods Post and Beam in Newburyport: We are constructing a new home for Mr. And Mrs. Zickell at 16 Old Merrill Street. Included in that home would be an in-law apartment for their daughter and son-in-law. The lot meets all the requirements, everything is within zoning. Re: the in-law apartment, it meets all criteria of the in-law conditions. It's only 690 square feet, less than 30 % of the overall building, from the exterior, you'd never know there was an apartment there. It looks like a complete single family home. The unit is above the two car garage. There are two exterior and two interior parking spaces. We don't believe there is any detriment to the public good, it's in keeping with the character of the neighborhood and surrounding properties. No excessive traffic or water/ sewage uses. It fits the bylaws. (Mr. Christopher shows plans to the ZBA to view the plans).

Matt Sherrill: By definition, the common unlocked door means directly into the other unit.

What you have is a common entrance opening into a stairwell. You have a half wall with a couple stairs up. I'm ok with that, since you can see into the apartment, so it does open into the apartment. The law doesn't say it has to be finished living space. Unfinished is ok. No separate meters, enough parking, meets definition of in-law apartment. Son-in-law just bought lot next door, so this won't be for too long, maybe 4-5 years.

Charles Goodwin, abutter at 15 Old Merrill Street: Matt, you've made several comments about notifying the building inspector when it abandons. 1 Old Merrill Street got an in-law apartment permit. It's a full blown apartment. 7 1/2 Old Merrill Street was built with an in-law apartment. It's a full blown apartment. 527 Main Street never got permits for apartments, but its three families. The track record on Old Merrill Street isn't good for in-law apartments not turning into full blown apartments. With the development that is going on at Old Merrill Street, the street has no fire hydrant that works, so we have no fire protection. These houses are all going on wells, because there isn't enough water pressure there for the houses that are already on town water. How

Can we have a two family house on a well on a single family lot? My biggest issue is the fact that the foundation is already in for this modular home, yet they have the arrogance to come in here after the fact to get an in-law apartment. This should have been done before, not after.

Matt Sherrill: I have to correct you. He didn't jump the gun. He's asking us before the home is being constructed, are we going to give him permission to do that. That is what we're here to do tonight.

Bernard Christopher: I have to send this to the state for approval, so nothing has been done. We're waiting for this meeting. There has been no construction other than foundation last week.

Matt Sherrill: If you, as an abutter, Mr. Goodwin, see something going on, then contact Mr. Nadeau, building inspector, and make it known.

Motion by Sharon McDermot to close and discuss. Motion seconded by Olyce Moore.

We're doing a SPECIAL PERMIT for an in-law apartment. There is no FINDING.

1. Does it currently exist in Table of uses? Yes.
2. Is it essential to public convenience or welfare? Yes.
3. If granted, will it create undue traffic or impeded any pedestrian safety in neighborhood? No.
4. It will not overload public systems? It will not.
5. Does it meet special conditions? Satisfied.
6. It will not impair special character, health or welfare of district? No.
7. It will not create excess abuse in the neighborhood? No knowledge of excess in-law apartments in the neighborhood.

Just to clarify the **stipulation**: the common unlocked entryway is a half wall and opens directly into the unit. Also, the plan shows a door where the three steps are. That door will no longer exist at the top of the three steps.

Motion to close and vote made by Sharon McDermot. Motion is seconded by Bill Lavoie.

Bill Lavoie: yes.

Olyce Moore: yes.

Matt Sherrill: yes.

Sharon McDermot: yes.

The SPECIAL PERMIT application has been approved.

Scott Stone Construction is seeking a **Special Permit/Finding** under Amesbury Zoning Bylaws Section IX, Paragraph B; Extension and Alteration to add a shed dormer to a two family home at **18 Pleasant Street**, Amesbury in an R8 Zoning District, Precinct 6.

This will be a FINDING.

Geno Rinaldi, employer of Scott Stone and an owner of the property at 18 Pleasant Street.

We're asking for relief for a shed dormer, however today I met both of my abutters and we've made some minor changes to two doghouse dormers, which I'm fine with, I think it looks better. We purchased the property as a rental building. It's dry walled, wired livable space and used that way for quite a while. We're just trying to make it legally accessible. You hit your head going up the stairs as it exists, with no way to put in a railing. We'd like to create a nice space there. The ZBA has been up to see it before we started any work a month or so ago to see what we had in mind. The length is 27 feet, so you have a 4 foot, then a 7 foot dormer, then about 6 feet, then a 7 foot dormer, then 4 feet...rough measurements. I have one small concern in that I need to have the front dormer on the street side of the house needs to allow access up that stair. We have to work that in, but its interior.

Nick Cracknell, abutter on 13 Pickard Street, across the street from this property.

I saw concerns last week, but failed to seek him out to discuss them. My concerns are the length of the dormer, the size, the window patterns and some concerns about it being out of scale with the size of this very small house on this extremely small lot. It is very visible from the street and church parking lot, and throws off the composition of the building having that length of dormer on that small structure. So we discussed breaking up the length of smaller sheds (not doghouse

dormers as discussed). I wouldn't be opposed to doghouse dormers, but would be if they are 7 feet wide. Doghouse dormers are usually little gable triangles.

Motion by Sharon McDermot to close and discuss. Motion was seconded by Olyce Moore.

In front of us, we have an alternative plan that we'll put into the record. The original plan given to us was a full shed dormer, and as testified by the applicant, we are now going to have two smaller shed dormers, placement roughly 4 feet in, dormers roughly about 7 feet, but placement will be determined upon the headroom coming into the unit. So it has changed from full shed to two smaller shed dormers.

Predates zoning? Yes. 1900.

Current non-conforming? Right and left side, front yard, area, frontage.

If approved, more or less detrimental to neighborhood? No effect.

Does it create any new non-conformity? No.

No reason for stipulation.

Alternative dormer plan being put into the record.

Motion by Sharon McDermot to close and vote. Motion seconded by Olyce Moore.

Bill Lavoie: Yes.

Olyce Moore: Yes

Matt Sherrill: Yes.

Sharon McDermot: Yes.

Application is approved, with the alternative plan being the plan we will use now.

Emily Smedstad, Trustee is seeking a **Finding** under Amesbury Zoning Bylaws Section IX, Paragraph B; Extension and Alteration to **adjust a lot line between #37 and #41 Powow Street** to retain garage on #41 Powow St., Amesbury in an R8 Zoning District, Precinct 3

Edward Ratcliff, Engineering and Survey Services: We have a pair of family owned properties that have been in the family for a very long time. It is a real estate title nightmare. The real estate attorney says we have an existing single family house owned by Emily, then we have an existing duplex owned by the family. The family wants to sell the existing duplex, but the attorney is having a hard time trying to figure out how he's going to make title work. So we have an existing garage that has been part of the property at #41 since existence. They'd like to maintain this garage with #41 and the driveway. They'd like to take the encroachment of that garage off #37 and clear up title there. We're not changing frontage in any way. We will be making #41 more conforming, but we will be making #37 a little less conforming. We will still be able to meet side yard setbacks with the new lot line.

Mr. Ratcliff approaches the board to further explain, using the plan. The garage is a brick and concrete building. There is an easement running through this property. We created two separate lots. The easement will be erased by the change of the lot line. The ultimate goal is to take this duplex, have its own parking, be its own property, keep the single family as its own property as it was in the past.

A discussion ensued over the five bay garage and if the removal of one bay was ever discussed. Garage is valuable, so that was not considered an option. This would make it a clear title, sellable property, according to the real estate lawyer.

Motion by Sharon McDermot to close and discuss. Motion seconded by Olyce Moore.

It is a non-conforming case.

Two findings worksheets... one for #37 and one for #41.

#37 lot line will be **less conforming**.

#41 lot line adjustment, **creating more area**.

41 Powow Street: Predates Zoning. 1910.

Non-conforming? Front, rear, side setbacks right and left

Detrimental? No effect

New non-conforming? No

Motion to close and vote by Sharon McDermot. Motion is seconded by Olyce Moore.

Bill Lavoie: Yes.

Olyce Moore: Yes.

Matt Sherrill: Yes.

Sharon McDermott: Yes.

#37 Powow Street

Predates Zoning? Yes, 1906.

Non-conforming? Front, rear, right side.

Detrimental? No effect.

New Non-conforming? Yes, on left side set back.

Motion to close and vote by Sharon McDermot. Motion is seconded by Olyce Moore.

Bill Lavoie: Yes.

Olyce Moore: Yes.

Matt Sherrill: Yes. Sharon McDermott: Yes.

Both lot line adjustment applications are approved.

Mylar gets signed.

Motion to adjourn Matt Sherrill, second Sharon McDermot.

Meeting adjourned 9:10 p.m.